

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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| UNITED STATES OF AMERICA |) | |
| |) | No. 21-mj-2786 |
| v. |) | |
| |) | Magistrate Judge Holmes |
| AUSTIN KIDD |) | |

**UNITED STATES' UNOPPOSED MOTION TO SUSPEND THE 30-DAY STATUTORY
SPEEDY TRIAL CLOCK AND EXCLUDE SUCH TIME FOR ALL
SPEEDY TRIAL ACT PURPOSES**

The United States of America, by and through the undersigned Assistant United States Attorney, hereby moves this Court to suspend the 30-day time period imposed by the Speedy Trial Act for returning an indictment in the above-captioned case, and to exclude such time for all Speedy Trial Act purposes, including but not limited to the 30-day time period under 18 U.S.C. § 3161(b) within which an information or indictment must be filed. In support of this motion, the United States sets forth as follows:

The United States initiated this case via complaint and arrest warrant issued on February 25, 2021. Defendant was arrested on the criminal complaint and warrant on March 17, 2021, and made his initial appearance in federal court the same day. Defendant's preliminary and detention hearing was on March 24, 2021.

Under 18 U.S.C. § 3161(b), an indictment or information must be filed within 30 days from the date on which a defendant was arrested. Under normal circumstances, the United States would be required to seek an indictment no later than April 16, 2021.

On March 16, 2020, due to the pandemic associated with the coronavirus (COVID-19), this Court issued Administrative Order No. 209, which included a directive stating, "all grand jury proceedings scheduled to take place between March 17, 2020 and April 30, 2020, are continued. Accordingly, all related deadlines are suspended and tolled for all purposes, including the statute

of limitations, from March 17, 2020 through April 30, 2020.” (Admin. Order 209, ¶ 6.) The Court most recently amended this Administrative Order for the eleventh time on February 25, 2021, explaining that “[a]ll grand jury proceedings are continued through April 15, 2021.” (Admin. Order 209, Eleventh Amended, ¶ 8.) The Court explained further that “all related deadlines are suspended and tolled for all purposes, including the statute of limitations, through April 15, 2021.” (*Id.*)

The Court entered these Administrative Orders in response to the public-health emergency declared across the State of Tennessee by the Governor to address public-health concerns related to the spread of COVID-19. (*Id.*) The United States is cognizant of the concerns identified in the Court’s Administrative Orders and the public-health risk created for government counsel, witnesses, grand jurors, and Court personnel by assembling during the period of the public-health emergency declared in the State of Tennessee.

While the United States was originally required to seek an indictment no later than April 16, 2021 under 18 U.S.C. § 3161(b), the Speedy Trial Act also automatically provides for an additional 30-days to seek an indictment “in a district in which no grand jury has been in session during such thirty-day period.” *Id.* However, in light of the Administrative Order issued on February 25, 2021, there has not been a grand jury in session that was authorized and available to the United States to seek an indictment in this case since this case was charged by complaint on February 25, 2021.

The Speedy Trial Act excludes from “the time within which an information or an indictment must be filed, or in computing the time within which the trial of any such offense must commence,” any period of delay based on a continuance granted by “any judge” based on “findings that the ends of justice served by taking such action outweigh the best interest of the public and

the defendant in a speedy trial.” 18 U.S.C. § 3161(h) & (h)(7)(A). The Court must set forth “in the record of the case” its reasons supporting such a finding, after considering the factors identified in the statute, among others. *Id.*, § 3161(h)(7)(A) & (B).

Accordingly, to eliminate the possible risk of dismissal under the Speedy Trial Act, and to comply with the statute, this Court’s Administrative Orders, and public-health requirements, the United States respectfully requests that this Court (1) grant this motion; (2) find that the ends-of-justice require the Court to suspend the time within which the United States must seek an indictment, with the 30-day period to begin anew on the date that this Court, through a new Administrative Order, permits grand juries in the Middle District of Tennessee to resume meeting and be available and authorized to hear cases generally, in the normal course of business; (3) suspend the 30-day statutory speedy trial clock in this case, and (4) exclude the period of time between the date on which Defendant was arrested and the date on which this Court first permits grand juries in the Middle District of Tennessee to resume meeting and be available and authorized to hear cases generally, for all Speedy Trial Act purposes, including, but not limited to the 30-day time period under 18 U.S.C. § 3161(b) in which an information or indictment must be filed, and the 90-day time period under 18-U.S.C. § 3164(b) for beginning trial for a defendant who is detained solely because he is awaiting trial.

Respectfully submitted,
MARY JANE STEWART
ACTING UNITED STATES
ATTORNEY

By: /s/ Monica R. Morrison
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been filed electronically with the clerk of the court by using the CM/ECF system, which will send an electronic copy to defense counsel to David Baker, Attorney for Defendant, on the 1st day of April, 2021.

/s/ *Monica R. Morrison*

MONICA R. MORRISON

Assistant United States Attorney